Dispute Resolution of Concrete Joint Material Cleanup Level

Pursuant to section VIII(G)(1)(c) of the Agreed Order, The Boeing Company respectfully requests Department of Ecology management review of Ecology's proposed Interim Action for removal of all concrete joint material at North Boeing Field containing more than 1 mg/kg (ppm) PCBs. We do not believe that Ecology's proposed Interim Action meets the basic requirements of WAC 173-340-430 as incorporated in Agreed Order No. DE 5685 (section VI.E), because it is not "technically necessary to reduce a threat to human health or the environment." Ecology has so far articulated a speculative and theoretical benefit to removing all PCB-containing material at NBF, however, the standard for ordering interim actions is not whether the actions might have a benefit but whether the actions are "technically necessary" in light of "sufficient technical information." WAC 173-340430(4)(a).

Ecology has applied a 1 mg/kg cleanup standard based on the following rationale: "The current analytical detection limit attainable for caulk material is 0.8 mg/kg. . . . Thus, a remediation level for caulk of 1 mg/kg total PCBs is more realistically measurable. This value coincides with the MTCA Method A cleanup level for soil." This methodology is not appropriate for evaluating construction materials such as concrete joint compounds. In fact, if Ecology were to apply a similar rationale for the application of cleanup levels at or near detection limits to other construction materials (such as PAH and TPH in asphalt), it would lead to unreasonable results because most construction products would fail to meet the MTCA criteria. Such a requirement has not been Ecology's practice in the past, and there is no basis for singling out Boeing to apply such a standard. The issue is not the concentration of any particular constituent in a material but the ability of the constituent to mobilize and have a pathway for exposure.